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9 San Francisco, California 94104
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12 Attorneys for Chapter 7 Trustee Richard Marshack

13 UNITED STATES BANKRUPTCY COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION

16 In re:

17 DUTCHINTS DEVELOPMENT LLC,
18 Debtor.

Case No. 21-51255-MEH

Chapter 7

**EX PARTE APPLICATION FOR
BANKRUPTCY RULE 2004
EXAMINATION OF VARIOUS
INDIVIDUALS AND ENTITIES
CONNECTED TO THE DEBTOR**

[NO HEARING REQUIRED]

19 Richard Marshack, Trustee of the Estate of Dutchints Development LLC (“Debtor”) the duly
20 appointed, qualified and acting Interim Chapter 7 trustee herein, hereby applies *ex parte* to the Court,
21 pursuant to Federal Rule of Bankruptcy Procedure 2004 (“Rule 2004”) and Bankruptcy Local Rule
22 2004-1(a), for the following: an Order permitting the Trustee to serve a subpoena for a deposition
23 and/or the production of documents on the individuals and entities listed on Exhibit A hereto.

24 **BASIS FOR REQUEST FOR RULE 2004 EXAMINATION**

25 This case was commenced on September 29, 2021 by the filing of a voluntary petition by the
26 Debtor under Chapter 11 of the United States Bankruptcy Code. The case was thereafter converted
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1 to a Chapter 7 case on February 11, 2022. The Trustee was appointed following an election of
2 creditors.

3 Based on a review of the Debtor's schedules along with information obtained from the
4 Debtor's Accountant, creditors of the Debtor, and public records, the Trustee has identified certain
5 Individuals likely to have information or documents concerning the Debtor and its affairs. A list of
6 the individuals and entities, along with a brief statement of their connection to the Debtor, is attached
7 hereto as **Exhibit A**.

8 Bankruptcy Rule 2004 provides for the examination of any entity as well as the production of
9 documents from any entity relevant to the acts, conduct, or property or to the liabilities and financial
10 condition of the Debtor. Rule 2004 (b). The scope of a Rule 2004 examination is exceptionally
11 broad and is allowed for the purpose of discovering assets and unearthing frauds. 9 Collier on
12 Bankruptcy ¶2004.01[1] (Richard Levin & Henry Sommer eds. 16th ed.).

13 Further, the Trustee seeks to issue document subpoenas to these individuals and entities for
14 all records relating to the Debtor and to Debtor Affiliates (including the Debtor's Responsible
15 Individual) in order to learn about the financial condition of the Debtor, its operations, potential
16 transfers of property between the Debtor and Debtor Affiliates that may be subject to avoidance by
17 the Trustee. The proposed categories for production of documents are listed in **Exhibit B** attached
18 hereto.

19 WHEREFORE, the Trustee respectfully requests that an Order for Rule 2004 Examination be
20 entered permitting the Trustee to serve subpoenas on the Individuals for depositions and production
21 of documents based on the list of individuals and documents set out on **Exhibit A** and **Exhibit B** and
22 in the form of Proposed Order attached hereto as **Exhibit C** and uploaded concurrently with this
23 Application.

24 Dated: March 30, 2023.

25 Respectfully Submitted,
26 FOX ROTHSCCHILD LLP
27 /s/ Jack Praetzellis
28 By: Jack Praetzellis,
Attorneys for Chapter 7 Trustee Richard
Marshack

EXHIBIT A

List of Individuals and Entities

<u>#</u>	<u>Last Name/ Entity</u>	<u>First Name</u>	<u>Current/Former Connection to Debtor¹</u>
1.	Tashjian	Shoushan	Former 50% owner of Debtor
2.	Arnett	Kaela	Former spouse of Vahe Tashjian, Managing Director of Debtor
3.	Spieker	Todd	Forclosing lender against certain real property against whom debtor may have litigation claims for, among other things, breach of contract and breach of the implied covenant of good faith and fair dealing
4.	Spieker	Catherine R.	Forclosing lender against certain real property against whom debtor may have litigation claims for, among other things, breach of contract and breach of the implied covenant of good faith and fair dealing
5.	Newmark Knight Frank		Agent/broker for forclosing lender against certain real property against whom debtor may have litigation claims for, among other things, breach of contract and breach of the implied covenant of good faith and fair dealing
6.	Hopman	Joel	Agent/broker for forclosing lender against certain real property against whom debtor may have litigation claims for, among other things, breach of

¹ Exhibit A is duplicated on the Proposed Order submitted herewith with the exception of the “Current / Former Connection to Debtor” column which has been deleted from the Proposed Order.

			contract and breach of the implied covenant of good faith and fair dealing
7.	Suddjian	Keith	Agent/broker for foreclosing lender against certain real property against whom debtor may have litigation claims for, among other things, breach of contract and breach of the implied covenant of good faith and fair dealing
8.	Mancini	Randy	18771 Homstead real property foreclosing lender against whom debtor may have litigation claims, for among other things, quantum meruit
9.	Mancini	Karol	18771 Homstead real property foreclosing lender against whom debtor may have litigation claims, for among other things, quantum meruit

1 **EXHIBIT B²**

2 **DOCUMENTS TO BE PRODUCED**

3 **DEFINITIONS**

4 A. The term DEBTOR shall mean Dutchints Development LLC.

5 B. The term DEBTOR-AFFILIATES shall mean the following persons or entities:

6 a. 1210 Fremont Ave LLC

7 b. 1575 Grant Road LLC

8 c. 18500 Marshall Ln LLC

9 d. 18771 Homestead Rd. LLC

10 e. 1900 Warburton Ave

11 f. 1st Street Group LLC

12 g. 1st street Group LLC

13 h. 24925 Oneonta Drive LLC

14 i. 26088 Duval LLC

15 j. 5150 ECR Group

16 k. 5150 ECR Group LLC

17 l. 5150 ECR Partners LLC

18 m. 570 S. Rengstorff Group LLC

19 n. 980 Golden Way LLC

20 o. ADL 2 LLC

21 p. Any other entity known to the person responding to this
22 subpoena to have any point been owned or controlled, in any
23 manner whatsoever, by the DEBTOR or any DEBTOR-
24 AFFILATE

25 q. Arnett, Kaela

26 r. DD 1503 Grant Road LLC

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28 ² Exhibit B is duplicated in its entirety on the Proposed Order submitted herewith.

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- s. DD 1st Street Group LLC
- t. DD 20th Street Group LLC
- u. DD 5150 ECR Partners LLC
- v. DD 570 S. Regstroff Group LLC
- w. DD Bulb Rd LLC
- x. DD Fund 2 LLC
- y. DD Fund Manager LLC
- z. DD GPI LLC
- aa. DD Icon Partners LLC
- bb. DD San Carlos Avenue Group
- cc. DD Stonebrook Drive LLC
- dd. DD VDG Group LLC
- ee. DD Warburton Group LLC
- ff. DD/HLC 360 Saratoga Ave LLC
- gg. Dutchints LLC
- hh. Flip Fund LLC
- ii. Fund 2 LLC
- jj. San Carlos Ave
- kk. San Carlos Group LLC
- ll. Stonebrook Drive LLC
- mm. T Properties LLC
- nn. Tashjian Properties LLC
- oo. Tashjian, Madeline
- pp. Tashjian, Vahe
- qq. TPPG, LLC
- rr. Urban Catalyst

1 ss. Vahe S. Tashjian 2018 Living Trust Dated December 19,
2 2018
3 tt. Vera Ave RC LLC
4 uu. Warburton Group LLC
5 vv. Whitman, Aline Tashjian
6 ww. Tashjian, Shoushan
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8 **CATEGORIES FOR PRODUCTION**

9 1. All documents, communication, and electronically stored information relating to the
10 DEBTOR.

11 2. All documents, communication, and electronically stored information relating to any
12 DEBTOR-AFFILIATES. To the extent the party responding to this subpoena is defined as a
13 DEBTOR-AFFILIATE, this category shall be limited to communication relating to any DEBTOR-
14 AFFILIATE excluding the responding party.

15 3. All documents, communication, and electronically stored information relating to any
16 current or former ASSET of the DEBTOR. The term "ASSET" shall mean any personal property
17 (e.g., cash, bank accounts, membership interests in limited liability companies, stock in
18 corporations), real property (e.g., real estate), or intellectual property (e.g., trademarks, copyrights,
19 patents) that was owned, in whole or in part, directly or indirectly, by the DEBTOR or any
20 DEBTOR-AFFILATE.

21 4. All documents, communication, and electronically stored information relating to any
22 current or former ASSET of any DEBTOR-AFFILATE.

23 5. To the extent not already provided in response to this subpoena, documents,
24 communication, and electronically stored information relating to the financial affairs of the
25 DEBTOR.

26 6. To the extent not already provided in response to this subpoena, documents,
27 communication, and electronically stored information relating to the financial affairs of any
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1 DEBTOR-AFFILATE.

2 7. To the extent not already provided in response to this subpoena, documents,
3 communication, and electronically stored information relating to the transfer of any ASSET between
4 the DEBTOR and the DEBTOR-AFFILIATES.

5 8. To the extent not already provided in response to this subpoena, documents,
6 communication, and electronically stored information relating to the transfer of any ASSET between
7 the DEBTOR and any entity other than the DEBTOR-AFFILIATES.

8 9. All documents and communication relating to 1877 Homstead Road, including but not
9 limited to, the acquisition and development of that property.

EXHIBIT C – PROPOSED ORDER

1 MICHAEL A. SWEET (SBN 184345)
msweet@foxrothschild.com
2 EDWARD J. TREDINNICK (SBN 84033)
etredinnick@foxrothschild.com
3 JACK PRAETZELLIS (SBN 267765)
jpraetzellis@foxrothschild.com
4 **FOX ROTHSCHILD LLP**
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5 San Francisco, California 94104
Telephone: (415) 364-5540
6 Facsimile: (415) 391-4436

7 Attorneys for Chapter 7 Trustee Richard Marshack

8 UNITED STATES BANKRUPTCY COURT
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10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

12 In re:
13 DUTCHINTS DEVELOPMENT LLC,
14 Debtor.

Case No. 21-51255-MEH

Chapter 7

**ORDER AUTHORIZING RULE 2004
EXAMINATION OF OF VARIOUS
INDIVIDUALS AND ENTITIES
CONNECTED TO THE DEBTOR**

[NO HEARING REQUIRED]

18 Upon the Ex Parte Application for Bankruptcy Rule 2004 Examination of Various Individuals
19 and Entities Connected to the Debtor (the "Application") of Richard Marshack, Trustee of the Estate
20 of Dutchints Development LLC, ("Debtor") and good cause appearing therefor, IT IS HEREBY
21 ORDERED as follows:

22 1. The Trustee may serve a deposition subpoena upon the individuals and entities listed
23 on Exhibit A hereto.

24 2. The Trustee may serve upon the individuals and entities listed on Exhibit A hereto
25 subpoenas for the production of the categories of documents set forth in Exhibit B hereto.
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EXHIBIT A

List of Individuals and Entities

<u>#</u>	<u>Last Name/Entity</u>	<u>First Name</u>
1.	Tashjian	Shoushan
2.	Arnett	Kaela
3.	Spieker	Todd
4.	Spieker	Catherine R.
5.	Newmark Knight Frank	
6.	Hopman	Joel
7.	Suddjian	Keith
8.	Mancini	Randy
9.	Mancini	Karol

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EXHIBIT B
DOCUMENTS TO BE PRODUCED
DEFINITIONS

- A. The term DEBTOR shall mean Dutchints Development LLC.
- B. The term DEBTOR-AFFILIATES shall mean the following persons or entities:
- a. 1210 Fremont Ave LLC
 - b. 1575 Grant Road LLC
 - c. 18500 Marshall Ln LLC
 - d. 18771 Homestead Rd. LLC
 - e. 1900 Warburton Ave
 - f. 1st Street Group LLC
 - g. 1st street Group LLC
 - h. 24925 Oneonta Drive LLC
 - i. 26088 Duval LLC
 - j. 5150 ECR Group
 - k. 5150 ECR Group LLC
 - l. 5150 ECR Partners LLC
 - m. 570 S. Rengstorff Group LLC
 - n. 980 Golden Way LLC
 - o. ADL 2 LLC
 - p. Any other entity known to the person responding to this subpoena to have any point been owned or controlled, in any manner whatsoever, by the DEBTOR or any DEBTOR-AFFILATE
 - q. Arnett, Kaela
 - r. DD 1503 Grant Road LLC
 - s. DD 1st Street Group LLC
 - t. DD 20th Street Group LLC

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- u. DD 5150 ECR Partners LLC
- v. DD 570 S. Regstroff Group LLC
- w. DD Bulb Rd LLC
- x. DD Fund 2 LLC
- y. DD Fund Manager LLC
- z. DD GPI LLC
- aa. DD Icon Partners LLC
- bb. DD San Carlos Avenue Group
- cc. DD Stonebrook Drive LLC
- dd. DD VDG Group LLC
- ee. DD Warburton Group LLC
- ff. DD/HLC 360 Saratoga Ave LLC
- gg. Dutchints LLC
- hh. Flip Fund LLC
- ii. Fund 2 LLC
- jj. San Carlos Ave
- kk. San Carlos Group LLC
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- oo. Tashjian, Madeline
- pp. Tashjian, Vahe
- qq. TPPG, LLC
- rr. Urban Catalyst
- ss. Vahe S. Tashjian 2018 Living Trust Dated December 19,
2018
- tt. Vera Ave RC LLC

1 uu. Warburton Group LLC
2 vv. Whitman, Aline Tashjian
3 ww. Tashjian, Shoushan
4

5 **CATEGORIES FOR PRODUCTION**

6 1. All documents, communication, and electronically stored information relating to the
7 DEBTOR.

8 2. All documents, communication, and electronically stored information relating to any
9 DEBTOR-AFFILIATES. To the extent the party responding to this subpoena is defined as a
10 DEBTOR-AFFILIATE, this category shall be limited to communication relating to any DEBTOR-
11 AFFILIATE excluding the responding party.

12 3. All documents, communication, and electronically stored information relating to any
13 current or former ASSET of the DEBTOR. The term "ASSET" shall mean any personal property
14 (e.g., cash, bank accounts, membership interests in limited liability companies, stock in
15 corporations), real property (e.g., real estate), or intellectual property (e.g., trademarks, copyrights,
16 patents) that was owned, in whole or in part, directly or indirectly, by the DEBTOR or any
17 DEBTOR-AFFILATE.

18 4. All documents, communication, and electronically stored information relating to any
19 current or former ASSET of any DEBTOR-AFFILATE.

20 5. To the extent not already provided in response to this subpoena, documents,
21 communication, and electronically stored information relating to the financial affairs of the
22 DEBTOR.

23 6. To the extent not already provided in response to this subpoena, documents,
24 communication, and electronically stored information relating to the financial affairs of any
25 DEBTOR-AFFILATE.

26 7. To the extent not already provided in response to this subpoena, documents,
27 communication, and electronically stored information relating to the transfer of any ASSET between
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1 the DEBTOR and the DEBTOR-AFFILIATES.

2 8. To the extent not already provided in response to this subpoena, documents,
3 communication, and electronically stored information relating to the transfer of any ASSET between
4 the DEBTOR and any entity other than the DEBTOR-AFFILIATES.

5 9. All documents and communication relating to 1877 Homstead Road, including but not
6 limited to, the acquisition and development of that property.

7 ****END OF ORDER****
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Court Service List

All relevant parties served by ECF

1 **PROOF OF SERVICE OF DOCUMENT**

2 I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business
3 address is 10250 Constellation Boulevard, Suite 900, Los Angeles, CA 90067.

4 A true and correct copy of the foregoing document entitled: EX PARTE APPLICATION FOR
5 BANKRUPTCY RULE 2004 EXAMINATION OF VARIOUS INDIVIDUALS AND ENTITIES
6 CONNECTED TO THE DEBTOR will be served or was served (a) on the judge in chambers in the
7 form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

8 **1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant
9 to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and
10 hyperlink to the document. On March 30, 2023, I checked the CM/ECF docket for this bankruptcy case or
11 adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to
12 receive NEF transmission at the email addresses stated below:

- 13 • Marcus O. Colabianchi mcolabianchi@duanemorris.com, dmicros@duanemorris.com
- 14 • Kathryn S. Diemer kdiemer@diemerwei.com
- 15 • William J. Healy wjhealy7@gmail.com
- 16 • Geoffrey A. Heaton gheaton@duanemorris.com, dmicros@duanemorris.com
- 17 • Monique Jewett-Brewster mjb@hopkinscarley.com, eamaro@hopkinscarley.com
- 18 • Timothy S. Laffredi timothy.s.laffredi@usdoj.gov
- 19 • Meagen E. Leary meleary@duanemorris.com, jnazzal@duanemorris.com; tjevals@duanemorris.com
- 20 • Benjamin R. Levinson ben@benlevinsonlaw.com
- 21 • Susan B. Luce sluce@diemerwei.com
- 22 • Iain A. Macdonald imac@macfern.com, 6824376420@filings.docketbird.com
- 23 • Byron Z. Moldo bmoldo@ecjlaw.com, lpekru@ecjlaw.com
- 24 • Vinod Nichani vinod@nichanilawfirm.com, NichaniVR98323@notify.bestcase.com
- 25 • Office of the U.S. Trustee / SJ USTPRegion17.SJ.ECF@usdoj.gov
- 26 • Elvina Rofael elvina.rofael@usdoj.gov, Katina.Umpierre@usdoj.gov, GemMil.Langit@usdoj.gov
- 27 • Valerie Jean Schratz vschratz@hallgriffin.com, llane@hallgriffin.com
- 28 • Leonard M. Shulman lshulman@shulmanbastian.com
- Wayne A. Silver w_silver@sbcglobal.net, ws@waynesilverlaw.com
- Troy H. Slome tslome@mdjalaw.com, riwata@mdjalaw.com
- Wendy W. Smith Wendy@bindermlalter.com
- Michael St. James ecf@stjames-law.com
- Michael A. Sweet msweet@foxrothschild.com, michael-sweet-6337@ecf.pacerpro.com
- Zachary Tyson zacharytyson@novalawgroup.com, zacharytyson@gmail.com
- Marta Villacorta marta.villacorta@usdoj.gov
- Kaipo K.B. Young KYoung@BL-Plaw.com

29 **2. SERVED BY UNITED STATES MAIL:** On March 30, 2023, I served the following persons and/or
30 entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and
31 correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed
32 as follows. *Listing the judge here constitutes a declaration that mailing to the judge will be completed no
33 later than 24 hours after the document is filed.*

34 FCI Lender Services, Inc.
35 P.O. Box 27370
36 Anaheim, CA 92809-0112

Grace C. Lee
MEYLAN DAVITT JAIN AREVIAN & KIM LLP
444 S. Flower Street, Suite 1850
Los Angeles, CA 90071

Leonard M. Shulman
SHULMAN BASTIAN FRIEDMAN & BUI LLP
100 Spectrum Center Drive, Suite 600
Irvine, CA 92618

Vahe Tashjian
901 Loyola Drive
Los Altos, CA 94024

American Express National Bank
c/o Becket and Lee LLP
PO Box 3001
Malvern, PA 19355-0701

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on N/A, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. *Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.*

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

March 30, 2023

Kimberly Hoang

/s/ Kimberly Hoang

Date

Printed Name

Signature